IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.14463 of 2001

Between:

K.Rajaiah S/o Late Chattaraiah,
R/o 7-1-282, Near yellamma Temple,

Bahalool Khanguda, Balkampet, Hyderabad

..... PETITIONER

AND

1 Chief Secretary to Govt of A.P. (G.A.D)
Secretariat, Saifabad, Hyderabad
2 Secretary to Govt (Revenue Dept)
Secretariat Saifabad, Hyderabad
3 Collector and District Magistrate
Hyderabad Dist., Nampalli
Hyderabad.
4 Superintending Engineer (Social Welfare)
A.P.S.C.C. of C.Ltd, 6th Floor, Paigh Plaza
Basheerbhag, Hyderabad.
5 Special Court under Land Grabbing Act,
BRKR Building, Secretariat,
Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction one in the nature of WRIT OF CERTIORARI calling for the records from the 5th respondent herein I.A.No.1049/99 in

L.G.A.Sr.No.3023/99 Dtd .30-6-2000 and quash the same and pass such other orders.

Counsel for the Petitioner: Mr. THAKUR SINGH

Counsel for the Respondents: GP FOR ASSIGNMENT

The Court made the following :

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ORAL ORDER : (per HON'BLE THE CHIEF JUSTICE)

Petitioner herein sought condonation of delay of 531 days in filing appeal before the Special Court under the Andhra Pradesh Land Grabbing (Prohibition) Act,1982 at Hyderabad. Delay was sought to be condoned on the ground that petitioner had earlier filed O.S.No.2184 of 1987 on the file of IV Additional Judge, City Civil court, Hyderabad for injunction with respect to the schedule property. It was transferred to the Special Tribunal, Hyderabad and was numbered as O.P.471 of 1990, which was disposed of by Judgment dated 16-1-1998 partly allowing to the extent of vacant land and partly dismissing to the extent of the house standing on it. Appeal was preferred with application under Section 5 of the Limitation Act read with sub-Section (3) of Section 7-A of the Andhra Pradesh Land Grabbing (Prohibition) Act,1982. Grounds projected for condoning delay are that petitioner was a very old man and chronic heart patient and has been under continuous treatment as in-patient and out-patient in various hospitals. Because of his ill-health, he was still undergoing treatment and was not in a position to get up and move around. Therefore, he was not aware of the disposal of O.P. and when his son enquired his Advocate on 26-8-1999, he was informed that O.P. was disposed of on 16-1-1998. That is how, the delay had occurred. The application was opposed by respondents 1 to 4 herein. Ultimately, by the order impugned in the writ petition, application was rejected on the grounds that the averments made in the affidavit filed in support of the delay condonation petition do not make out sufficient ground. There was no allegation made by respondents that petitioner was not heart patient and was not admitted into hospital.

We have heard learned counsel for the parties and gone through the record. In such like matters where question involved is of condoning delay, a liberal approach has

to be adopted by the Courts. Unless it is shown that because of delay, petitioner has to gain any advantage or that because of delay, which has occurred, valuable right of respondents is affected, invariably prayer must be allowed. It is not shown that how petitioner would gain advantage over respondents 1 to 4 because of delay. There is no *mala fide* imputed against petitioner. As such, the impugned order passed by the Special Court cannot be sustained. In our view, the averments made in the affidavit will make a very good case having successfully explained the delay.

Writ Petition is allowed. Impugned order is set aside. I.A.No.1049 of 1999 in L.G.A. (SR) No.3023 of 1999 on the file of the Special Court under the Andhra Pradesh Land Grabbing (Prohibition) Act,1982, Hyderabad is allowed. Delay is condoned. L.G.A. be taken on file by the Special Court and decided according to law.

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(**DEVINDER GUPTA, CJ**)

30th August, 2004

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(**C.V. RAMULU,J**)

Prk

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the

Thirtieth day of August Two thousand and four.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Chief Secretary, Govt of A.P.,
Secretariat, Saifabad, Hyderabad.
2 The Secretary to Govt (Revenue Dept)
Secretariat, Saifabad, Hyderabad
3 The Collector and District Magistrate,
Hyderabad Dist., Nampalli
Hyderabad.
4 The Superintending Engineer (Social Welfare)
A.P.S.C.C. of C.Ltd, 6th Floor, Paigh Plaza
Basheerbhag, Hyderabad.
5 The Registrar, Special Court under Land Grabbing Act,
BRKR Building, Secretariat,
Hyderabad

6 2CCs to Govt.Pleader for Assignment, High Court Buildings, Hyderabad (O.U.T.)

7 2CD copies